98TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 98-780
Part 1

PIPELINE SAFETY

MAY 15, 1984.—Ordered to be printed

Mr. HOWARD, from the Committee on Public Works and Transportation, submitted the following

REPORT

[To accompany H.R. 5313 which on March 30, 1984, was referred jointly to the Committee on Energy and Commerce and the Committee on Public Works and Transportation]

[Including cost estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 5313) to authorize appropriations for fiscal year 1985 to carry out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

PURPOSE AND SUMMARY

The purpose of H.R. 5313 is to authorize appropriations for Fiscal Year 1985 for carrying out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 and for making minor changes in both Acts.

BACKGROUND AND NEED

The pipeline transportation of gas and hazardous liquids is regulated with regard to safety. The Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 are the primary authorities for regulating pipeline safety.

The Pipeline Safety Act of 1979 amended the Natural Gas Pipeline Safety Act of 1968 so as to, among other things, strengthen the

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Federal enforcement capability, by directing the Secretary of Transportation to establish and enforce certain specific safety standards for liquified natural gas facilities.

In addition, it established a new regulatory scheme for the pipeline transportation of hazardous liquids. This new regulatory scheme, the Hazardous Liquid Pipeline Safety Act, closely parallels the regulatory scheme for the pipeline transportation of gas.

These Acts provide an overall scheme for the regulation of the pipeline transportation of gas and hazardous liquids. The Acts require establishment of minimum Federal safety standards. These standards are exclusive for interstate pipelines and facilities. However, States may impose additional or more stringent standards for intrastate pipelines and facilities as long as they are compatible with the minimum Federal standards.

The Federal responsibility for carrying out these Acts is vested in the Department of Transportation's Materials Transportation Bureau. That Bureau, in conjunction with the States, oversees the safety regulation of both gas pipelines and hazardous liquid pipelines. The combined pipeline system consists of about 1.7 million miles. There are about 1.5 million miles of gas pipelines and 225,000 miles of hazardous liquid pipelines.

Since the passage of the Natural Gas Pipeline Safety Act of 1968, the Department of Transportation has overseen a pipeline safety program designed to assist States, pursuant to section 5 of that Act, in protecting their citizens against the perils of unsafe natural gas pipeline systems. States which participate in the pipeline safety program conduct inspections of pipelines and related facilities subject to the Act and, in appropriate situations, see that adequate corrective measures are taken. All States, except Alaska and South Dakota, participate in the program.

Since its enactment in 1968, the Natural Gas Pipeline Safety Grants-In-Aid Program (49 U.S.C. 1671) has proved to be a model of Federal-State cooperation in its implementation of gas pipeline safety standards.

A similar mechanism was established for instituting a state program for the pipeline transportation of hazardous liquids in section 205 of the Hazardous Liquid Pipeline Safety Act of 1979. However, the program has not yet commenced, principally, because the States having intrastate hazardous liquid pipeline systems needed time to formulate and establish their State programs in order.

The Committee has been advised that, as of April 1984, sixteen states have legislation to regulate intrastate hazardous liquid programs and, thus, have proper jurisdiction for program eligibility. The States are Arizona, Arkansas, California, Hawaii, Iowa, Kansas, Montana, Nevada, New Mexico, New York, North Dakota, Ohio, Pennsylvania, Texas, West Virginia, and Wyoming. Six other States are seeking the necessary legislation. They are Alabama, Louisiana, Mississippi, Oklahoma, Washington, and Wisconsin. The Committee notes that the above mentioned States have over 80 percent of the intrastate hazardous liquid pipelines that would be regulated by the Hazardous Liquid Pipeline Safety Act. Moreover, it should be noted that the Department of Transportation has issued its Notice of Proposed Rulemaking for the regulations pertaining to these pipelines and that the final rules should be promulgated in

the Fall of 1984. Hence, the Department will be able to commence the State grant program in Fiscal Year 1985.

The National Association of Regulatory Utility Commissioners urged the Committee to commence this State grant program. At the hearings held on March 21, 1984, William Smeigh, testifying on behalf of the Association, stated that:

> The hazardous liquid pipeline safety program is another Federal-State partnership whereby Federal grants-in-aid are authorized to be provided to participating States for enforcing intrastate liquid pipeline safety. However, the program is in its fourth year and funds have never been appropriated. The success of the natural gas pipeline safety program is a strong indicator that the hazardous liquid pipeline safety program could be equally as beneficial if given an equal opportunity. The States need the reauthorization of this program so that they may continue their efforts to secure Federal funding. The States are ready and willing to make this program work once they have the proper authorization and appropriations.
>
> As of June 29, 1983, 15 States had proper jurisdiction for program eligibility through legislation and 7 States are seeking legislation to provide them with jurisdiction. If this safety program is to become a reality, funds must be appropriated; however, once again the budget request for fiscal year 1985 does not include funding for the hazardous liquid pipeline safety program. Like the Natural Gas Pipeline Safety Program, the hazardous liquids program would assist the Federal government in fulfilling its safety responsibilities and at the same time it would reduce the Federal funding level that would otherwise be required.
>
> The NARUC has continued to encourage that funds be appropriated for this program. In 1983, the NARUC requested that $1 million in start-up funds be provided for the implementation of the hazardous liquid pipeline safety program; however, no funds were appropriated. Without funding the States are unlikely to pick up the program.
>
> The DOT is presently in the process of proposing rules for intrastate hazardous liquids pipeline safety in addition to the existing regulations for interstate pipeline safety. However, without funding the States will be left with Federal regulations for the enforcement of inter- and intrastate safety measures and yet no money for implementing this enforcement. It is apparent that the States have an interest in this program and the regulations available to make it work. With the proper reauthorization and funding, the hazardous liquid pipeline safety program could play a vital role in pipeline safety.

The Committee has been very patient with respect to the commencement of this program. However, it believes that the program should start in Fiscal Year 1985. The bill provides $500,000.00 for carrying out the program in Fiscal Year 1985.

The Committee added $200,000.00 to the Administration's request for the Department to carry out its training responsibilities

under the Natural Gas Pipeline Safety Act. This was done so that the Department would not diminish its financial support for the training activities it now provides for at its training center in Oklahoma City.

An amendment was added by the Full Committee that requires all owners and operators of gas interstate transmission facilities to provide a report to the Secretary of Transportation which identifies the location and condition of all pipeline facilities constructed prior to January 1, 1938. The report should include the most recent leak survey done on those pipeline facilities.

The Secretary then is required to inspect these facilities unless, if on the basis of the report, the Secretary determines the facility to be in safe condition. In addition, the Secretary must identify, base upon information acquired from any inspections that are conducted, any pipelines that might pose a danger to health and safety.

The reported bill makes two amendments to the Hazardous Liquid Pipeline Safety Act.

One amendment directs the Secretary of the Department of Transportation to study the issues relating to the transportation of methanol through the existing interstate liquid pipeline system. Methanol is a liquid transportation fuel that is unexpected to receive increasing use. The safety, technical and economic considerations with respect to its pipeline movement need to be considered. The study results are to be submitted to the Congress within six months after the date of enactment.

The other amendment directs the Secretary of Transportation to study the feasibility and costs connected with requiring various methods of testing and inspecting hazardous liquid pipeline facilities. In carrying out the study, the Secretary is to evaluate any new technologies available for monitoring the condition of such facilities from both the outside and the inside. Based on the study, the Secretary, in consultation with the Technical Hazardous Liquid Safety Standards Committee established under section 204 of this title, shall make recommendations as to the frequency and type of testing and inspection of pipeline facilities which should be required. The evaluation results and recommendations are to be submitted to the Congress within one year after date of enactment.

SECTION-BY-SECTION

Subsection 1(a)(1) amends subsection 17(a) of the Natural Gas Pipeline Safety Act so as to authorize $3.6 million for carrying out the Natural Gas Pipeline Safety Act of 1985.

Subsection 1(a)(2) amends subsection 17(b) of the Natural Gas Pipeline Safety Act so as to authorize $3.5 million for the State grant program.

Subsection 1(b)(1) amends subsection 214(a) of the Hazardous Liquid Pipeline Safety Act so as to authorize $900,000 for carrying out the Hazardous Liquid Pipeline Safety Act.

Subsection (1)(b)(2) amends subsection 214(b) of the Hazardous Liquid Pipeline Safety Act so as to authorize $500,000 for carrying out the State grant program.

Subsection 2(a) requires the Secretary to conduct a study on issues relating to the transportation of methanol by pipeline. The study must contain recommendations for the safe and efficient transportation of methanol by pipeline.

Subsection 2(b) requires the Secretary to examine specified criteria in making the study.

Subsection 2(c) requires that the report must be submitted 180 days after the date of enactment.

Section 3 amends section 210 of the Hazardous Liquid Pipeline Safety Act by adding a new subsection (c).

New subsection (c)(1) requires the Secretary to study the feasibility of and costs connected with requiring various methods of testing and inspecting hazardous liquid pipelines.

New subsection (c)(2) requires the Secretary to make recommendations based upon the study and on consultations with the Technical Hazardous Liquid Pipeline Safety Standards Committee as to the frequency and type of testing and inspection which should be required. Specified factors must be taken into account by the Secretary in the formulation of the recommendations.

New subsection (c)(3) requires that the report and recommendations be submitted to the Congress within one year after the date of enactment of this subsection.

Section 4 amends the Natural Gas Pipeline Safety Act by adding a new section 20.

New subsection 20(a) requires any person owning or operating interstate transmission lines to submit a report to the Secretary within 120 days after the date of enactment. The report must identify the location and condition of all pipeline facilities the construction of which was completed before January 1, 1938. The report must also include the most recent leak survey information compiled by such owner or operator with respect to such pipeline facilities.

New subsection 20(b) requires the Secretary, within 90 days after receiving the report, to inspect the pipelines set out in the report, except when the Secretary, based upon the reports submitted, determines a pipeline to be in safe condition. The Secretary is required to identify, based upon the information in the report and the information obtained through inspections, any pipeline facilities which might pose a danger to the public health and safety.

New subsection 20(c) authorizes appropriations not to exceed $200,000 for Fiscal Year 1985 to carry out this section.

Committee Consideration

H.R. 5313, a bill to authorize appropriations for Fiscal Year 1985 to carry out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes, was introduced on March 30, 1984. It was referred jointly to the Committees on Energy and Commerce and Public Works and Transportation.

The Subcommittee on Surface Transportation held hearings on March 21, 1984 on the subject matter of the legislation. On May 9, 1984 the Committee on Public Works and Transportation, by voice

vote, ordered H.R. 5313 to be reported with an amendment to the House.

Compliance with Clause 2(l) of Rule XI of the Rules of the House of Representatives

(1) Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, no separate hearings were held on the subject matter by the Subcommittee on Investigations and Oversight. However, the Subcommittee on Surface Transportation held hearings on this subject matter which resulted in the reported bill.

(2) With respect to clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the bill, as reported does not provide new budget authority or increased tax expenditures. Accordingly, a statement pursuant to section 308(a) of the Congressional Budget Act is not required.

(3) Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no report has been submitted to the committee by the Committee on Government Operations pertaining to this subject matter.

Pursuant to clause 2(l)(4) of the rule XI of the Rules of the House of Representatives, the committee makes the following statement with regard to the inflationary impact of the reported bill:

The committee believes that the enactment of this legislation will have no inflationary impact on prices and costs in the operation of the national economy.

Cost Estimate

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made regarding the cost of this legislation:

The reported bill authorizes (1) an appropriation $3,600,000 for Fiscal Year 1985 for the purpose of carrying out the Natural Gas Pipeline Safety Act of 1968, as amended, (2) an appropriation of $3,500,000 for carrying out the State grant program of the Natural Gas Pipeline Safety Act of 1968, as amended, (3) and appropriations of $900,000 for Fiscal Year 1982 for carrying the Hazardous Liquid Pipeline Safety Act of 1979, (4) an appropriation of $500,000 for carrying out the State grant program of the Hazardous Liquid Pipeline Safety Act of 1979, and an appropriation not to exceed $200,000 for carrying out section 4 of this bill. The Committee estimates that this represents the amounts necessary for adequate performance of the statutory functions under the Acts during Fiscal Year 1985.

Vote

The Committee ordered the bill reported by voice vote.

In accordance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee has received a report prepared by the Congressional Budget Office under section 403 of the Congressional Budget Act. The report is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 15, 1984.

Hon. JAMES J. HOWARD,
Chairman, Committee on Public Works and Transportation, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 5313, a bill to authorize appropriations for fiscal year 1985 to carry out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ERIC HANUSHEK
(For Rudolph G. Penner, Director).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 5313.

2. Bill title: A bill to authorize appropriations for fiscal year 1985 to carry out the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes.

3. Bill status: As ordered reported by the House Committee on Public Works and Transportation, May 9, 1984.

4. Bill purpose: This bill authorizes a total appropriation of $7.1 million for fiscal year 1985 for activities conducted under the Natural Gas Pipeline Safety Act of 1968, including $3.6 million for administration and $3.5 million for state grants-in-aid. It also authorizes a total of $1.4 million for fiscal year 1985 for activities conducted under the Hazardous Liquid Pipeline Safety Act of 1979, including $0.9 million for administration of the program and $0.5 for state grants-in-aid. The bill also requires anyone owning or operating interstate transmission facilities to submit a report to the Secretary of Transportation identifying the location and condition of the pipelines, and any history of leaks. The Secretary, in turn, must inspect all facilities in question and identify those which may pose a danger to public safety. An appropriation of $200,000 for fiscal year 1985 is authorized for this purpose.

5. Estimated cost to The Federal Government:

[By fiscal years, in millions of dollars]

	1985	1986	1987	1988	1989
Authorization level	8.7				
Estimated outlays	5.6	3.1			

The costs of this bill fall within budget function 400.

Basis of estimate: For the purpose of this estimate, CBO assumed that the full amounts authorized will be appropriated prior to the beginning of the fiscal year. The authorization levels are those

specified in the bill. Estimated outlays are based on recent historical spending patterns of the Hazardous Materials Transportation Bureau of the Department of Transportation, which administers the above programs.

6. Estimated cost to State and local governments: This bill authorizes $3.5 million for grants to States for the natural gas pipeline safety program, and $0.5 million for grants to States for the hazardous liquid pipeline safety program. These grants may be used to cover up to 50 percent of State program costs.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 14, 1984, CBO prepared a cost estimate for H.R. 5313, as ordered reported by the House Committee on Energy and Commerce, May 8, 1984. That version of the bill was similar to this one except that it provided no funding for the grants-in-aid to States program under the Hazardous Liquid PIpeline Safety Act of 1979. The estimated costs reflect these differences.

On May 15, 1984, CBO also prepared an estimate for a similar Senate bill ordered reported by the Senate Committee on Commerce, Science and Transportation, May 9, 1984. That bill authorized funding for the State grants-in-aid program under the Hazardous Liquid Pipeline Safety Act of 1979, but did not include funding for surveying pipeline facilities. It also authorized funding for fiscal year 1986. The estimate reflects these differences.

9. Estimate prepared by: Kathleen Kelly.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Natural Gas Pipeline Safety Act of 1968

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APPROPRIATIONS AUTHORIZED

Sec. 17. (a) For the purpose of carrying out the provisions of this Act (other than provisions for which funds are authorized to be appropriated under subsection (b)), [there are suthorized to be appropriated—

(1) $6,200,000, for the fiscal year ending September 30, 1980; and

(2) $6,900,000, for the fiscal year ending September 30, 1981.] *there is authorized to be appropriated $3,600,000 for the fiscal year ending September 30, 1985.*

* * * * * * *

(b) For the purpose of carrying out the Federal grants-in-aid provisions of section 5(d) of this Act, [there are authorized to be appropriated—

(1) $4,500,000, for the fiscal year ending September 30, 1980; and

(2) $5,500,000, for the fiscal year ending September 30, 1981.] *there is authorized to be appropriated $3,500,000 for the fiscal year ending September 30, 1985.*

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SURVEY OF PIPELINE FACILITIES

SEC. 20. (a) Any person owning or operating interstate transmission facilities shall, within 120 days after the date of enactment of this section, submit a report to the Secretary which—

(1) identifies the location and condition of all pipeline facilities whose construction was completed before January 1, 1938; and

(2) includes the most recent leak survey information compiled by such owner or operator with respect to such pipeline facilities.

(b) The Secretary shall, within 90 days after receiving any report under subsection (a)—

(1) inspect the pipeline facilities described in subsection (a)(1), except when the Secretary, based on reports submitted under subsection (a), determines that a pipeline facility is in safe condition; and

(2) identify, on the basis of the information contained in such report and the information obtained by the Secretary through such inspections, any pipeline facilities which might pose a danger to the public health and safety.

(c) There are authorized to be appropriated to the Secretary for the purpose of carrying out this section, not to exceed $200,000 for the fiscal year ending September 30, 1985.

HAZARDOUS LIQUID PIPELINE ACT OF 1979

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INSPECTION AND MAINTENANCE

SEC. 210. (a) Each person who engages in the transportation of hazardous liquids or who owns or operates pipeline facilities shall prepare, maintain at such office or offices of that person as the Secretary determines appropriate, and carry out a current written plan for inspection and maintenance of each facility used in that transportation and owned or operated by that person in accordance with regulations prescribed by the Secretary or, where a certification or agreement pursuant to section 205 of this title is in effect, by the appropriate State agency. The Secretary may, by regulation, also require persons who engage in the transportation of hazardous liquids or who own or operate pipeline facilities subject to the provisions of this title to file such plans for approval. A plan required by this subsection shall be practicable and designed to meet the need for pipeline safety and shall be made available to the Secretary or appropiate State agency upon request pursuant to section 211.

(b) If the Secretary or appropriate State agency finds that a plan required under this section is inadequate to achieve safe operation of pipeline facilites, the Secretary or appropiate State agency shall, after notice and opportunity for a hearing, require the plan to be revised. In determining the adequacy of a plan filed under this section, the Secretary or appropriate State agency shall consider—

(1) relevant available pipeline safety data;

(2) whether the plan is appropriate for the particular type of pipeline transportation or facility;

(3) the reasonableness of the plan; and

(4) the extent to which such plan will contribute to public safety.

(c)(1) The Secretary shall study the feasibility of and costs connected with requiring various methods of testing and inspecting hazardous liquid pipeline facilities subject to the provisions of this title. In carrying out such study the Secretary shall evaluate any new technologies available for monitoring, from the outside or the inside, the condition of such facilities.

(2) The Secretary shall make recommendations, based on the study undertaken under this subsection and on consultations between the Secretary and the Technical Hazardous Liquid Pipeline Safety Standards Committee established under section 204 of this title, as to the frequency and type of testing and inspection of pipeline facilities which should be required, taking into account the following:

(A) The location of the pipeline facilities.

(B) The type, age, manufacturer, method construction, and condition of the pipeline facilities.

(C) The nature of the materials transported through the pipeline facilities, the sequence in which such materials are transported, and the pressure at which they are transported.

(D) The climatic, geologic, and seismic characteristics of, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas.

(E) The frequency of leaks, if any.

(F) The costs of the various available methods.

(G) Any other factors the Secretary determines to be relevant to the safety of the pipeline facilities.

(3) The Secretary shall submit a report detailing the results of the study undertaken under this subsection and setting forth the recommendations made under paragraph (2) to the Congress no later than one year after the date of enactment of this subsection.

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APPROPRIATIONS AUTHORIZED

SEC. 214. (a) For the purpose of carrying out the provisions of this title (other than provisions for which funds are authorized to be appropriated under subsection (b)), [there are authorized to be appropriated—

(1) $1,800,000, for the fiscal year ending September 30, 1980; and

(2) $2,100,000, for the fiscal year ending September 30, 1981.] *there is authorized to be appropriated $900,000 for the fiscal year ending September 30, 1985.*

(b) For the purpose of carrying out the Federal grants-in-aid provisions of section 205 of this title, [there are authorized to be appropriated—

(1) $500,000, for the fiscal year ending September 30, 1980; and

(2) $535,000, for the fiscal year ending September 30, 1981.] *there is authorized to be appropriated $500,000 for the fiscal year ending September 30, 1985.*

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98TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
98-793

CIVIL AERONAUTICS BOARD SUNSET ACT OF 1984

MAY 21, 1984.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HOWARD, from the Committee on Public Works and Transportation, submitted the following

REPORT

together with

SUPPLEMENTAL VIEWS

[To accompany H.R. 5297]

[Including cost estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 5297) to amend the Federal Aviation Act of 1958 to terminate certain functions of the Civil Aeronautics Board, to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

The bill reported by the Committee, H.R. 5297, the Civil Aeronautics Board Sunset Act of 1984, clarifies and completes the program established by the Airline Deregulation Act of 1978 (ADA) for deregulation of domestic aviation and the termination of the Civil Aeronautics Board.

The Airline Deregulation Act of 1978 was landmark legislation. It was the first of a series of laws converting most of the transportation industry from a system of protective regulation, in which service and fares were determined by government decision, to a deregulated system in which service and fares were determined by the competitive marketplace. Under the ADA deregulation of domestic aviation was accomplished in phases. In 1981 there was deregulation of domestic routes, leaving airlines free to choose the markets they served. In 1983 domestic rates were deregulated. The Act further provided that on January 1, 1985, the CAB itself would be terminated and the Board's

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remaining functions, such as regulation of international aviation and administration of the subsidy program for small community air service, would be transferred to other agencies.

Well in advance of the 1985 date for termination of CAB the Subcommittee on Aviation began comprehensive hearings to evaluate deregulation thoroughly and to determine whether further legislation would be needed. Hearings were conducted in five phases: the state of the airline industry under deregulation, airline computer reservations system, regulation of travel agents, small community air service, the organization and procedures to be followed by the Department of Transportation after CAB sunset, and legislative proposals for modifying the ADA. These hearings have led the Committee to conclude that deregulation has been generally successful and that there should be no change in the major reform of the ADA, the deregulation of domestic air carrier routes and rates. However, the Committee believes that legislation is needed to clairfy the ADA and to ensure that some limited but highly important CAB functions, such as consumer protection, will continue to be carried out by other agencies after CAB sunset.

General Evaluation of Deregulation

Almost every witness testifying before the Committee took the position that deregulation has provided substantial consumer benefits and permitted the industry to achieve cost efficiencies and cope more effectively with difficult economic conditions.

One of the main consumer benefits of deregulation has been that airline fares have gone up much less rapidly than airlines costs. Testimony at the hearings revealed that since the late 1970's the prices airlines have to pay for major inputs have more than doubled. Yet during this same period airline productivity has improved so that airline costs have increased by only 80 percent. During this same period passenger fares have increased by only 51 percent, much less than the increases in airline costs and less than the increase in the consumer price index. In constant dollars, the average fare paid by an airline passenger has declined from 5.5¢ per mile in 1977 to 4.8¢ per mile in 1983.[1] Although the statistics on fares are averages and some passengers have gained more of the benefits than others,[2] the benefits of reduced fares have been widespread. In 1982, 80 percent of all domestic coach travel was on discount fares, compared with 40 percent in 1978. In 1982 the average discount was 45 percent compared with 34 percent in 1978.

Under deregulation there have also been improvements in service. GAO data shows that between 1977 and 1983 departures at large hub airports increased 28.4 percent, departures at medium hub airports increased 36.3 percent, departures at small hub airports increased by 22.2 percent and departures at non-hub airports increased 9.89 percent.[3] In addition, the quality of connecting service has improved under de-

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[1] GAO data. Based on constant 1970 dollars.

[2] The shift from a uniform fare structure under regulation to a cost-based fare structure under deregulation has meant that there have been above average increases in fares in markets which are more expensive to serve, such as short-haul markets with low traffic density.

[3] 1983 data is preliminary.

regulation. From 1978 to 1983 the percentage of passengers using connecting service has remained at about 30 percent, but in 1978 41 percent of the connecting passengers had to change airlines while in 1982 fewer than 20 percent had to change airlines. This improvement in the quality of connecting service is attributable to the flexibility which deregulation has given airlines to develop connecting complexes or "hubs" at major cities.

The consumer benefits of deregulation are also evidenced by the fact that the number of passengers traveling on domestic airlines has increased from 276.8 million in 1978 to 312.7 million in 1983.[4] This increase was achieved during a period in which there was a severe recession and an air traffic controllers strike which limited operations for several years.

Deregulation has also benefitted the airline industry. Since 1978 the industry has had some unprofitable years. However, it is well-established that the airline industry is highly cyclical and that its profits vary widely with the general state of the economy. The poor financial showing of the airlines in recent years has coincided with general economic difficulties, including large increases in the costs the airlines have had to pay for fuel, high interest rates, a major recession, and a strike by air traffic controllers. In the opinion of the Air Transport Association, which represents most scheduled airlines, the management flexibility made possible by deregulation has helped the airlines cope more effectively with the poor economic conditions than they could have if the prior regulatory system had remained in place.

In sum, the Committee believes that deregulation has generally benefitted both consumers and the industry and that there should be no change in the major reforms of the 1978 Act, the deregulation of domestic airline routes and rates.

Need for Legislation

Although the Committee sees no need for major changes in the 1978 Act, there is a need for legislation to clarify the status of some of the CAB's authority after sunset.

The 1978 Act specifically transferred the major portion of the CAB's remaining authority to other agencies when CAB sunsets. Under the Act, CAB's authority over foreign air transportation and small community air service is transferred to the Department of Transportation. CAB's authority over air carrier mergers, interlocking relationships and agreements, and the related authority to issue antitrust immunity is transferred to the Department of Justice, and the Board's authority to set rates for domestic mail is transferred to the Postal Service, to be exercised through negotiations or competitive bidding.

However, the 1978 Act does not deal specifically with other authorities which the Board is now exercising and which are not specifically terminated in 1985. These authorities include the Board's authority to protect consumers and to prevent unfair competitive practices, and the requirement that the Board find an air carrier "fit" before the carrier provides air transportation. The Committee has concluded that

[4] GAO data.

these important authorities should be continued and should be exercised by the Department of Transportation. The Committee has further concluded that the Board's authority over air carrier mergers, interlocks and agreements, and the related authority to grant antitrust immunity would be more appropriately exercised by the Department of Transportation than the Department of Justice. Other changes which the reported bill makes in the ADA are discussed in the Section-by-Section analysis below.

Consumer Protection and Unfair Competitive Practices

The Board's basic authority to protect consumers and ensure fair competition comes from a number of provisions in the Federal Aviation Act, including Section 404 of the Act, requiring air carriers to provide safe and adequate service, equipment and facilities, Section 411 of the Act, giving the Board authority to proceed against unfair or deceptive practices or unfair methods of competition, Section 204(a) of the Act, empowering the Board to enact regulations necessary under the Act, and Section 102, the declaration of policy which guides the Board in exercising its authorities. Acting under these authorities, the Board has promulgated regulations protecting consumers in such areas as overbooking and denied boarding compensation, limitations, on liability for lost or damaged baggage, smoking, discrimination against the handicapped, terms of charter service, and the notice which airlines must give passengers of contractual terms between the passenger and the carrier. An important pending proceeding involving consumer protection and protection of airlines against unfair competitive practices is the Board's rulemaking to establish standards for the computer reservation systems which some airlines lease to travel agents.

The Committee believes that after CAB sunset there should continue to be authority in the Federal government to protect consumers against unfair and deceptive practices. Although these regulations touch relatively limited areas of airline operations they furnish important protections for consumers and we do not wish to see these regulations end precipitously when CAB sunsets. The authority now held by CAB (under Section 411) duplicates authority which the Federal Trade Commission has to protect consumers in other industries under Section 5 of the Federal Trade Commission Act. The additional authority which the Board holds under Section 404 and other provisions permits it to deal with such problems as discrimination against the handicapped and smoking on aircraft. These problems involve important issues of health, passenger comfort, and social policy, and in these limited areas the solutions reached by the marketplace are not always acceptable.

In addition to protecting consumers, federal regulation insures a uniform system of regulation and preempts regulation by the states. If there was no Federal regulation, the states might begin to regulate these areas, and the regulations could vary from state to state. This would be confusing and burdensome to airline passengers, as well as to the airlines.

There is also a strong need to preserve the Board's authority under Section 411 to ensure fair competition in air transportation. Again,

this is the same authority which the Federal Trade Commission exercises over other industries under Section 5 of the Federal Trade Commission Act. Although the airline industry has been deregulated, this does not mean that there are no limits to competitive practices. As is the case with all industry, carriers must not engage in practices which would destroy the framework under which fair competition operates. Air carriers are prohibited, as are firms in other industries, from practices which are inconsistent with the antitrust laws or the somewhat broader prohibitions of Section 411 of the Federal Aviation Act (corresponding to Section 5 of the Federal Trade Commission Act) against unfair competitive practices.

The CAB is currently considering allegations that large airlines which sell computer reservations systems to travel agents are using their monopoly powers in the CRS industry unlawfully to eliminate competition in the sale of air transportation. More recently, there have been concerns that large carriers will use the right to interline with them as a device to restrain competition unfairly. This could be accomplished by selective refusals to interline, or by selective refusals to interline on reasonable terms, based on competitive considerations. Section 411 furnishes a means of controlling abuses in this area, thereby helping preserve the system of interlining and the major benefits it brings to consumers.

By continuing CAB's authority to protect consumers and prohibit unfair competitive practices, the Committee is not taking the position that any particular regulations should continue in place indefinitely. While we do think it important to ensure that CAB's existing regulations will be transferred to the agency assuming CAB's authority, our intention is that the new agency will have the same authority as CAB to modify regulations in light of changing conditions. We are only preserving the authority to regulate, we are not preserving any particular regulations in perpetuity.

We have considered, but do not accept, the suggestion some witnesses that CAB's consumer protection authority and CAB's authority to ensure fair competition can be preserved without any legislation. The basic theory supporting this approach is that the sunset of CAB would have the effect of removing the exemption of air carriers from the Federal Trade Commission Act, thereby giving FTC authority to protect consumers and ensure fair competition. Most witnesses at the hearing rejected the legal analysis underlying this theory and even if the theory does have validity, it will be of little benefit to consumers and competitors since FTC itself testified that it does not agree with the theory and does not intend to take over CAB's authority after CAB sunsets.[5] And even if FTC could somehow be forced to take over CAB's authority to protect against unfair and deceptive practices, no witness took the position that that FTC would get CAB's Section 404 authority to require safe and adequate service without legislation. Section 404 is the main underlying authority for CAB's rules on smoking and discrimination against the handicapped.

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[5] The current exemption to Section 5 of the FTC Act exempts "air carriers and foreign air carriers subject to the Federal Aviation Act of 1958." The consensus at the hearing was that after CAB sunset, airlines will continue to be exempt from Section 5 since they will still be subject to many provisions of the Federal Aviation Act including a number of Sections in Title IV, which establishes economic regulation.

Moreover, if no legislation is enacted, CAB's existing regulations would not be transferred to FTC after sunset of CAB. This would mean that even if FTC did take over CAB's authority there would be no rules in place, and new rulemaking proceedings would have to be completed before consumers would have any protection.

The problems with the "no bill" approach were concisely summarized by the General Accounting Office which testified that:

> Based on our assessment of the factors affecting CAB's consumer protection functions, we offer a number of observations on what could happen should no further legislation be enacted. The future of CAB's regulations is unclear, the authority of FTC to assume those functions is questionable, and the permissible range of state actions is uncertain. Thus, a decline in consumer protection could possibly occur with a potential for increased litigation.

In short, the "no bill" approach would produce a confused legal situation and inadequate protection for consumers and fair competition. The Committee is not willing to accept there results.

The Committee has determined that the Department of Transportation is the most appropriate agency to administer CAB's consumer protection and unfair competitive practice authorities. Under the ADA, DOT will get CAB's authority to protect consumers and competitors insofar as international aviation and essential air service (EAS) are involved, and it would be confusing and inefficient to have DOT protect consumers and carriers in international and EAS operations, and another agency, such as FTC, protect consumers and carriers in other domestic operations. Airline flights frequently are not limited to one of these categories. Some airline flights provide both essential air transportation and other domestic transportation and other flights provide both domestic and international service. If two agencies shared authority for consumer protection, the rules could shift in mid-flight.

Some of the witnesses at the hearing suggested the problems of split jurisdiction could be avoided by giving all consumer protection and unfair competitive practice authority to FTC, rather than DOT. However, this solution would raise other problems, such as FTC's lack of familarity with the subject matter, and the prolonged rulemaking procedures which FTC is required to undertake under the Magnuson-Moss Act. Also giving FTC this authority would create other confusing splits in authority. For example, for international charter flights, DOT would have authority to protect consumers through its authority to review air carrier tariff rules covering the terms of a charter contract, while FTC would have overlapping authority to protect these consumers against unfair and deceptive practices. A transfer of CAB's authority to DOT would avoid these problems.

Air Carrier Fitness

Under current law, an air carrier cannot begin operations domestically until the CAB has issued a certificate under Section 401 of the Act upon the basis of a finding that the carrier is fit, willing, and able to provide the service proposed in its application and to comply with

applicable requirements of law. The Board's fitness evaluation complements the evaluation made by the Federal Aviation Administration, which issues air carriers operating certificates under Section 604 of the Act, on the basis of a finding that a carrier is properly and adequately equipped to conduct safe operations. When it issues this certificate FAA considers primarily whether an applicant has the technical capabilities to comply with FAA regulations. The FAA determines whether the applicant has technically qualified operations and maintenance personnel, and whether the applicant has developed the necessary operational and maintenance programs. CAB's area of inquiry is broader and more general, and covers the general management capabilities of an applicant's top management, the adequacy of the applicant's financial plan, and the record of the owners and top management of the applicant in complying with state and federal laws and regulations. CAB's evaluation helps ensure that the applicant will operate safely. CAB's evaluation also protects consumer against dishonest or incompetent operators.

The Committee has decided to transfer CAB's authority to DOT after sunset. We believe consumers should continue to have the safety and economic protections which result from a CAB fitness investigation. The fitness test as administered by CAB has not been a substantial barrier to entry and we do not intend to have DOT turn it into one in the future. The public should not be denied the benefits which flow from CAB fitness evaluations.

Antitrust Regulatory Authority

Under the ADA, CAB's authority to approve air carrier mergers, interlocks and agreements, and CAB's related authority to immunize approved transactions from the antitrust laws will be transferred to the Department of Justice after CAB sunset. The Committee has decided that these authorities would be more appropriately administered by the Department of Transportation and we have further decided to impose a sunset date of January 1, 1989 on the authorities so that Congress will have an opportunity to review whether the authorities should be continued.

Under the governing law, CAB's authority to approve intercarrier relationships and agreements requires an evaluation of the public interest, including the effects on competition. However, even in cases where a transaction or relationship is inconsistent with the antitrust laws and would lessen competition, CAB can still approve it if the Board finds that the anti-competitive effects are outweighed by significant transportation benefits and that these benefits cannot be satisfied by a reasonably available alternative which is materially less anti-competitive.

The Committee believes that DOT is the most appropriate agency to administer these statutory standards. As the lead transportation agency DOT is in the best position to evaluate whether a proposed transaction or relationship would provide substantial transportation benefits. Similarly, an agency specializing in transportation can best evaluate whether a proposed alternative is practical or just a theoretical exercise.

We anticipate that after DOT receives the authority the Department of Justice will continue its practice of participating in cases in which it believes that a proposed transaction or relationship would be anti-competitive. Thereby DOT will have the benefit of the Justice Department's expert knowledge of antitrust law.

DOT has suggested that it would be better to give CAB's antitrust authorities to the Department of Justice and CAB's consumer protection authority to FTC. DOT's apparent concern is that if all CAB's current authority goes to DOT, there will be a de facto continuation of CAB within DOT which will create pressures for reregulation. While we share DOT's desire not to create any pressures for reregulation, we have difficulty in seeing how these pressures would be created by the transfer to DOT of the small number of CAB personnel who deal with antitrust and consumer protection. The vast majority of CAB personnel, those who deal with international aviation and small community air service, will be going to DOT in any event. Adding the small number of CAB personnel who deal with consumer protection and antitrust immunity would not substantially increase the strength of former CAB employees at DOT. Moreover, since the late 1970's CAB has been a strong advocate of deregulation, not reregulation. There is no reason to assume that CAB employees would change their policy orientation after they transfer to DOT.[6]

The reported bill gives DOT substantial new responsibilities in aviation. The Committee expects that in administering these responsibilities DOT will preserve the competitive direction adopted in the Airline Deregulation Act of 1978 and the International Air Transportation Competition Act of 1979, and that the Secretary will be guided by the policies of Section 102 of the Federal Aviation Act. These policies, in conjunction with the authorities transferred in this bill will ensure that the Secretary will administer programs under his or her control in a manner that promotes airline competition and other important public policy objectives.

Due Process and Political Insulation

Generally speaking, when Congress has established economic regulation of entry and pricing for an industry, Congress has provided that the regulatory scheme will be administered by an independent agency which is not part of the Executive Branch and which operates under quasi-judicial procedures. This approach is designed to ensure that applicants will receive full and fair hearings, and that decisions will be based on the evidentiary record and statutory criteria rather than on the effects of a decision on an administration's political interests or legislative agenda.

Because of our concern over ensuring that the airline cases will continue to be decided on the basis of statutory criteria, the Subcommittee held a separate hearing to consider DOT's organizational and procedural plans for dealing with the functions it will administer after CAB sunset.

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[6] A related argument, which we find no more convincing, is that if all CAB authority is in DOT, Congress will be more tempted to reregulate. The Committee believes that if Congress ever considers proposals to reregulate, the decision will not be influenced by whether CAB antitrust and consumer protection personnel are concentrated in DOT or scattered to other agencies.

With regard to the procedures to be followed, DOT's plans appear to meet our concerns. The Department considers itself bound by the Administrative Procedure Act and intends to follow the requirements of this law in adjudicatory and rulemaking proceedings.

We are more doubtful about DOT's proposals for "insulation", that is proposals to ensure that final decisions will be based on statutory criteria and policies, and that the decision-maker will be insulated from political pressures.[7] Our concern has been that a Secretary of Transportation or a high level political official in the Department would find it difficult to limit his or her focus to the statutory criteria. DOT Secretaries and Assistant Secretaries are high ranking political officials of the Executive Branch and have an interest in furthering their Administration's legislative and political programs. They have a similar interest in furthering the legislative program of DOT which involves many matters other than aviation.

The DOT organizational proposals make an effort to overcome these problems by limiting the decision-making role of the Secretary and the Assistant Secretary, particularly in the selection of carriers for international routes. In these cases the Department's plan provides that the final decision will be made by a career civil servant. The Assistant Secretary and Secretary will have discretionary power to review the decision and remand it for further proceedings, but will not have authority to issue a new decision.

The DOT proposal would furnish some insulation of the decision-maker from political pressures, but it may not go far enough. The career civil servant who will be making decisions will not be independent of politically appointed officials. To the contrary, a career civil servant has a strong need to retain the good will of his or her politically appointed superiors. Although a career civil servant has the right to remain in government employment, he or she can be easily removed from a particular position. We are concerned that a career civil servant would have strong incentives to reach decisions based on the preferences of his or her political superiors. These preferences may be well-known even if they are not directly communicated.

Although we have problemms with DOT's organizational plan we have decided not to legislate on this issue at this time in view of the strong plea of the Department that they be given flexibility in setting up the organization to administer their new responsibilities. However, we urge the Department to give serious consideration to adopting organizational measures which would give additional insulation. Two possibilities are:

First, to have decisions reached by a panel of several career servants rather than a single official. A panel would reduce the vulnerability of each of the decision-makers and increase their ability to withstand political pressures. Also, if cases were decided by a panel rather than a single official, sunshine legislation would require that decisions be reached at open meetings. This would also decrease the likelihood that decisions would be based on political considerations.

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[7] The cases in which this could be a problem include licensing cases, such as the selection of carriers for international routes and the selection of carriers to provide essential air service, and other cases involving determinations with respect to a particular community or carrier, such as decisions on levels of essential air service and determinations as to whether a carrier has engaged in an unfair competitive practice.

Another way of increasing insulation from political pressures would be to give the civil servants assigned to these responsibilities several years of tenure as members of a decisional panel. This approach should not be confused with creating a new regulatory agency within the Department. The responsibilities of deciding aviation cases would not be a full-time assignment and the members of the decisional panel could be assigned other responsibilities as well.

In sum, the Committee believes that the reported bill will make an important contribution to preserving airline deregulation as established by the Airline Deregulation Act of 1978. A section-by-section summary of the reported bill follows:

Section-by-Section Summary

Section 1. Short Title.

Provides that the Act may be cited as the "Civil Aeronautics Board Sunset Act of 1984".

Section 2. Provides that unless otherwise expressly stated, all references to provisions of law in this legislation shall be considered to be references to the Federal Aviation Act of 1958.

Section 3. Termination and Transfer of Functions under the Federal Aviation Act of 1958.

(a) Amends Federal Aviation Act of 1958 to provide that after the sunset of the Civil Aeronautics Board (CAB) on December 31, 1984, CAB's authority under Sections 408 (consolidation, merger, and acquisition of control), 409 (interlocking relationships), and Section 412 (pooling and other agreements), and CAB's related authority under Section 414 (antitrust exemption) will be administered by the Department of Transportation (DOT). Under current law, the Department of Justice would take over this authority after sunset of CAB.

(b) Amends the Federal Aviation Act to provide that there will be no termination of the authority of the Civil Aeronautics Board under Section 204 of the Act which include CAB's rulemaking authority. CAB's authority under Section 204 will be transferred to the Department of Transportation on January 1, 1985.

(c) Provides that specified provisions of the Federal Aviation Act will cease to be in effect on January 1, 1985. Many of these provisions have already ceased to be effective by operation of the Deregulation Act of 1978 for interestate or overseas transportation of persons and by operation of CAB regulation for interstate and overrseas transportation of property. Other provisions of the Federal Aviation Act which are termnated by this provision are incompatible with the deregulated environment.

The following provisions of the Federal Aviation Act will cease to be in effect for interstate and overseas air transportation after January 1, 1985; Sections 401(l) and (m) which require certificated air carriers to carry mail; Sections 405(b), (c), and (d) which give the Postal Service and CAB various authority to require the carriage of mail; Section 403, which requires air carriers to file tariffs and imposes related requirements; and Section 404, which requires air carriers to provide reasonable through service and joint fares and prohibits unjust discrimination (this section continues in effect insofar as it requires air carriers to provide safe and adequate service).

The following provisions of the Federal Aviation Act will cease to be in effect foir any transportation after January 1, 1985: Sections 407 (b) and (c), which impose reporting requirements relating to stock ownership of air carriers and stock ownership by air carrier officers and directors; Section 410, which gives CAB authority over applications for loans and financial aid from the U.S. Government; Section 417, which authorizes CAB to allow charter air carriers to provide scheduled service in specified circumstances; and Sections 1002(d), (e), (g), (h), and (i) (except insofar as such sections relate to foreign air transportation) which give CAB regulatory authority over air carrier rates and fares.

This section further provides that Sections 412 of the Federal Aviation Act, insofar as it relates to interstate and ovherseas air transportation, and Sections 408 and 409 of the Federal Aviation Act, and related authority under Section 414 to award antitrust immunity, shall cease to be in effect on January 1, 1989. This sunset date will give Congress an oportunity to consider at that time whether there is still a need for administrative regulation of air carrier mergers and acquisitions and whether there is still a need for statutory authority to grant certain air carrier transactions immunity from the atntitrust laws. Section 6 of this bill requires DOT to submit a report and recommendations to Congress on this issue. The establishing of a sunset date for these authorities should not be construed as an indication that the Committee has reached a decision on whether the authorities should be renewed after they sunset. Accordingly, in administering these authorities, DOT should not phase out the enforcement of statutory requirements on the assumption that Confress wants the authority ended in 1989.

In administering Section 408 of the Act CAB has imposed labor protective provisions, known as the Allegheny-Mohawk conditions, as a condition to its approval of many mergers and other Section 408 transactions. These conditions have been imposed in all recent mergers of carriers operating large (more than 60 seats) aircraft. The Committee expects the DOT will continue to impose labor protective conditions and to consider the interests of industry employees when evaluating the public interest under Section 102(a)(3).

(d) Amends the ADA provision transferring to the Postal Service CAB's authority to set the rates for domestic mail. The amendment excludes the carriage of mail within Alaska from this transfer. Under subsection (e), below, CAB's authority to set rates for the transportation of mail within Alaska is transferred to the Department of Transportation. The Committee intends this amendment to preserve the status quo for the transportataion of mail within the State of Alaska. We expect that DOT will continue to apply the long accepted costing methodology developed by the CAB and that the Postal Service will continue to apply the equitable policies it has developed for the tender and division of mail between carriers.

As discussed in Section (f) below, the bill establishes a sunset date for the transfer of Alaskan mail authority to DOT.

Under the reported bill the Postal Service will continue to have authority under Section 405(e)(2) of the Federal Aviation Act to contract with foreign air carriers to transport mail to or within a foreign country in any case where such service "may be necessary." Although the reported bill does not change Section 405(e)(2), the

Committee has been concerned about the Postal Service's recent actions under Section 405(e)(2), and the Committee is taking this occasion to clarify the intent of this Section.

The Postmaster General recently issued contracts to foreign flag carriers to transport U.S. mail from U.S. gateways to foreign countries and apparently relied upon Section 405(e)(2) to make those awards. U.S. air carriers also unsuccessfully bid on these contracts. These contracts were for the carriage of international Surface Air Lift Mail. The ISAL program, which the U.S. Postal Service initiated in 1980, involved the carriage of bulk printed matter from the United States to foreign countries. The ISAL program was initiated by the Postal Service to capture a greater share of the international bulk mail market, which had previously moved as commercial air freight and was carried almost exclusively by foreign air carriers.

These recent awards of ISAL contracts to foreign air carriers raise two questions about Section 405(e)(2). First, what procedure must the Postmaster General follow in making a finding of necessity under Section 405(e)(2)? Second, what constitutes an adequate finding of necessity under that provision?

With respect to the first question, we believe that the Postmaster General should make a written finding of necessity before contracts are issued to foreign air carriers under Section 405(e)(2). There should be a written expression of the Postmaster General's reasons for the finding which can be judged against the statutory standard. With respect to the second question, we believe that the necessity finding imposes an exacting standard upon the Postmaster General. To satisfy it, he must be able to demonstrate that U.S. carriers offer no service or inadequate service in a market.

Ordinarily the fact that the price stated in the bid of a U.S. air carrier is higher than that stated in the bid of a foreign air carrier would not by itself be sufficient basis for a finding of inadequate service under section 405(e)(2). However, there may be special situations in which a price differential between U.S. and foreign carriers would be a basis for a finding of inadequate service and for contracting with foreign carriers under Section 405(e)(2). For some types of international mail, such as ISAL, mailers have the alternative of shipping by air freight if mail rates get too high, and this type of air freight has typically moved by foreign carriers. For this type of mail the Postal Service may find that use of higher bidding U.S. carriers on all routes would produce a net loss of business to U.S. carriers. Use of higher bidding U.S. carriers could increase the Postal Service's costs sufficiently to require higher mail rates, thereby causing mailers to shift from mail service to freight service by foreign carriers. Such an eventuality would clearly be contrary to the intent of Section 405(e)(2). Under such circumstances it could be a net benefit to U.S. carriers to give some mail contracts to lower bidding foreign carriers, thereby keeping mail rates down and preserving mail for U.S. carriers on other routes. In situations where there is strong evidence that use of foreign carriers for some mail routes would produce a net benefit for U.S. carriers, the Committee believes that to that extent contracting with foreign carriers would be consistent with Section 405(e)(2).

Finally, as a policy matter, the Postmaster General should consult with the Departments of State and Transportation, and the Civil Aeronautics Board whenever practicable before issuing contracts under Section 405(e)(2) to foreign air carriers when U.S. carriers are willing to serve a route. Our government's need to have a uniform approach to international aviation relations counsels against the Postmaster General making such awards without first consulting with the U.S. agencies that have international aviation responsibilities.

(e) Provides that all authority of CAB which this Act does not terminate on January 1, 1985, and which is not otherwise terminated or transferred, will be transferred to the Department of Transportation on January 1, 1985. The authority transferred to DOT under this section includes the CAB's authority under Section 404 of the Act, to ensure safe and adequate service; the CAB's authority under Section 411 of the Act, to prevent unfair or deceptive practices or unfair methods of competition in air transportation; and the CAB's responsibilities under Section 401 of the Act, to ensure that carriers providing interstate or overseas air transportation are fit, willing, and able to perform the transportation proposed in their application and to conform to the requirements of the Federal Aviation Act and regulations adopted thereunder. Existing law transfers to the Department of Transportation CAB's authority with respect to foreign air transportation and CAB's authority under Section 419 of the Act to establish a program for small community air service. Existing law also transfers to the U.S. Postal Service CAB's authority to determine rates for the carriage of mail in interstate and overseas air transportation. The Postal Service is to exercise this authority through negotiations or competitive bidding. Section 3 of this bill transfers to DOT, CAB's authority under Sections 408, 409, 412 and 414 of the Federal Aviation Act.

The Committee expects that in administering the authority it will receive from CAB, DOT will continue CAB's policy of encouraging the system of interline transportation. Through the interline system, airlines authorize each other to sell transportation and collect the amount due for interline services. These funds are held in trust and cleared through the Airline Clearing House. A smoothly functioning interline and clearing house system, allowing passengers to purchase transportation on more than one carrier on a single ticket and check baggage through to the traveler's ultimate destination, has provided substantial consumer benefits. DOT should facilitate the continuation of the system.

(f) Establishes a sunset date of January 1, 1989 for the transfer to DOT of CAB's authority to set rates for the carriage of mail between points in Alaska. This will permit Congress to consider at that time whether Alaskan mail rates should continue to be set by regulatory decision or whether the rates for Alaskan mail should be determined by negotiation and competitive bidding, the methods used for other domestic mail.

Section 4. Transfers of Functions Under Other Laws.

Transfers to the Department of Transportation the authority of CAB under specified laws. The inclusion of a law in this provision

does not necessarily indicate that the Committee believes that legislation is necessary to transfer the authority in that law to DOT when CAB is terminated; rather, the Committee has included these essentially conforming provisions to make the text of these statutes as clear as possible.

Section 5. Collection of Data.

Amends the authority of the Department of Transportation to collect information on civil aeronautics to require that after January 1, 1985, the Department will, at a minimum, continue to collect information on the origin and destination of passengers in interstate and overseas transportation and information on the number of passengers traveling between points in interstate and overseas air transportation. However, the Department will not be permitted to require carriers to submit this data on a flight-by-flight basis. Consistent with CAB's program to eliminate unnecessary reporting burdens, the traffic data will be collected on a summary basis by carrier, by market.

CAB has also collected data from the carriers involving financial and operating cost data. CAB has undertaken a program to reduce the amount of data reported in light of the Board's reduced responsibilities under deregulation. Following sunset, CAB's reporting requirements will be transferred to DOT under Sections 3 and 12 of this bill. While DOT will have authority to adjust those reporting requirements, we expect the Department to reduce requirements beyond the reduction accomplished by CAB before sunset only if DOT concludes that comparable data will be available without reporting requirements, or that the costs to the carriers of supplying data are much greater than the value of the data to the government and other legitimate users.

Section 6. Report on Air Carrier Agreements.

Requires the Secretary of Transportation to submit a report to the appropriate Committees of Congress not later than July 1, 1987, on the administration of Sections 408 and 409, 412 and 414 of the Federal Aviation Act and recommendations as to whether these authorities shall be continued. Requires the Secretary and the Postmaster General to submit a similar report on authority to establish rates for the carriage of mail between points in the State of Alaska.

Section 7. Incorporation by Reference.

Amends Section 411 of the Federal Aviation Act to clarify CAB's authority to issue regulations establishing uniform requirements governing notice to passengers of terms of the contract between an airline and its passengers which are incorporated by reference in a ticket. CAB has issued such regulations, ER–1302, 47 FR 52134, November 19, 1982, under authority of Sections 204, 404, and 411 of the Federal Aviation Act. The amendment in this section clarifies that issuance of this type of regulation is a proper exercise of CAB authority. This amendment should not be construed as an indication that the Committee considers that the regulations already enacted exceed CAB's authority under the statutory provisions cited by CAB.

Section 8. References to Certificates of Public Convenience and Necessity.

Provides that any reference in any law to a certificate of public convenience and necessity shall be deemed to refer to a certificate issued under Section 401 or Section 418 of the Federal Aviation Act. This

section clarifies that the Deregulation Act of 1978 and Public Law 95–163, which ended the requirement that the CAB make a public convenience and necessity finding before issuing a Section 401 or Section 418 certificates for interstate or overseas transportation, was not intended to change statutes other than the Federal Aviation Act which refer to certificates of public convenience and necessity held by air carriers.

Section 9. Miscellaneous Amendments.

The amendments conform the regulatory format in the Federal Aviation Act for interstate and overseas cargo transportation with the regulatory format governing interstate and overseas passenger transportation. Conforming changes are also made in a number of other statutes to reflect the termination of the CAB and the transfer of CAB authority to the Department of Transportation after January 1, 1985. The Postal Service's contracting authority in Title 39 of the U.S. code is modified to conform to the provisions in the Deregulation Act authorizing the Postal Service to use competitive bidding or negotiations in place of CAB ratemaking for interstate or overseas mail transportation (other than transportation between points in the State of Alaska). The CAB's right of access to the lands, buildings and equipment of air carriers under Section 407(e) of the Federal Aviation Act is limited to access necessary for a determination under Sections 401, 402, 418, or 419 that an air carrier is fit, willing, and able. This amendment does not change the CAB's right of access to accounts, records, and memorandums kept by air carriers, foreign air carriers, or ticket agents.

Section 10. Transfer and Allocations of Appropriations and Personnel.

Provisions governing the transfer and allocation of appropriations and personnel from the CAB to the agencies to which CAB functions are transferred.

Section 11. Effect on Personnel.

Provides that transferred employees are entitled to have the CAB evaluations used in determining merit pay, in addition to the evaluations of the new agency.

Section 12. Savings Provision.

Provides for the continuation of all effective CAB orders and proceedings after termination of the Civil Aeronautics Board. The Section further provides that with respect to functions transferred to other agencies, references in Federal laws to CAB shall be deemed to refer to the agency obtaining the function, and that with respect to any function transferred, the head of the agency receiving the function shall have the same authority as CAB. Pursuant to these provisions, the Committee expects that in carrying out its new responsibilities DOT will be guided by the Declaration of Policy in Section 102 of the Federal Aviation Act.

Section 13. Definitions.

Definition of "agency" and "function" for purposes of this Title.

Committee Action and Vote

With respect to clause 2(l)(2)(A) and (B) of rule XI of the Rules of the House of Representatives, the Committee, with a majority present, favorably reported, by voice vote, H.R. 5297, on May 9, 1984.

Prior to Committee action and vote the Subcommittee held a series of hearings on Review of Airline Deregulation and CAB Sunset: May 24, June 9 and 15, 1983, the State of the Airline Industry Under Deregulation (Committee publication 98–15); June 21, 22, ad 23, 1983; Airline Computer Reservations Systems (Committee publication 98–24); July 26 and 28, and October 20, 1983, Government Regulation of Relationships Between Airlines and Travel Agents (Committee publication 98–27); August 16, 1983 and January 31 and February 1, 1984, The Essential Air Service Program and Small Community Air Service (Committee Publication 98–34); February 29 and March 1, 1984, Organization and Procedures to be Followed by the Department of Transportation in Administering Its New Responsibilities After the Suncet of CAB (yet to be published); March 13 and 14, 1984, Legislative Proposals Relating to Airline Deregulation and CAB Sunset (yet to be published). On April 10, 1984 the Subcommittee on Aviation considered and recommended H.R. 5297, as amended, to the Committee.

Oversight Findings and Recommendations

With respect to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that no separate hearings were held on the subject matter of the legislation by the Subcommittee on Investigations and Oversight.

With respect to clause 2(l)(3(D) of rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

Congressional Budget Act Requirements

With respect to clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, and in compliance with section 308(a) of the Congressional Budget Act of 1974, the Committee reports that H.R. 5297 does not provide any new budget authority or new or increased tax expenditures.

With respect to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee has received the following report prepared by the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

U.S. Congress,
Congressional Budget Office,
Washington, D.C., May 15, 1984.

Hon. James J. Howard,
Chairman, Committee on Public Works and Transportation,
U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 5297, the Civil Aeronautics Board Sunset Act of 1984, as ordered reported by the House Committee on Public Works and Transportation, May 9, 1984. We expect that enactment of this bill

would result in no significant cost to federal, state or local governments.

H.R. 5297 would terminate certain functions of the Civil Aeronautics Board (CAB) and transfer other functions to the Department of Transportation (DOT) and other federal agencies. The bill also provides for the transfer of CAB personnel, property, accounts and unexpended balances to the DOT. Most of these changes would take effect on January 1, 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ERIC HANUSHEK
(For Rudolph G. Penner, Director).

INFLATIONARY IMPACT ANALYSIS

With respect to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee reports that there should be no inflationary impact on prices and costs in the operation of the national economy by enactment of H.R. 5297.

COST ESTIMATE OF LEGISLATION

With respect to clause 7(A)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that H.R. 5297 authorizes no funding and that there should be no costs incurred by enactment of the bill.

With respect to clause 7(A)(2) of rule XIII of the Rules of the House of Representatives, the Committee reports that no cost estimate of H.R. 5297 was submitted to the Committee by a government agency.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL AVIATION ACT OF 1958

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TITLE IV—AIR CARRIER ECONOMIC REGULATION

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[Sec. 411. Methods of competition.]
Sec. 411. Methods of competition.
(a) Investigations.
(b) Incorporation by reference.

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TITLE I—GENERAL PROVISIONS

DEFINITIONS

SEC. 101. As used in this Act, unless the context otherwise requires—
(1) * * *

* * * * * * *

[(11) "All-cargo air service" means—

[(A) the carriage by aircraft of only (i) property as a common carrier for compensation or hire, or (ii) mail, or both, in commerce between a place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the airspace over any place outside thereof; or between places in the same territory or possession of the United States, or the District of Columbia;

[(B) the carriage by aircraft of only (i) property as a common carrier for compensation or hire, or (ii) mail, or both, in commerce between a place in any State of the United States or the District of Columbia and any place in the Commonwealth of Puerto Rico or the Virgin Islands or between a place in the Commonwealth of Puerto Rico and a place in the Virgin Islands;

whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.]

(11) "All-cargo air service" means the carriage by aircraft in interstate or overseas air transportation of only property or mail, or both.

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FEDERAL PREEMPTION

PREEMPTION

SEC. 105. (a)(1) Except as provided in paragraph (2) of this subsection, no State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier having authority under title IV of this Act to provide [interstate] air transportation.

TITLE IV—AIR CARRIER ECONOMIC REGULATION

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ACCOUNTS, RECORDS, AND REPORTS

FILING OF REPORTS

SEC. 407. (a) * * *

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INSPECTION OF ACCOUNTS AND PROPERTY

(e) [The Board shall at all times have access to all lands, buildings, and equipment of any air carrier or foreign air carrier and to

all accounts, records, and memorandums, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers, foreign air carriers, or ticket agents and it may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memorandums.] *The Board shall have access to all lands, buildings, and equipment of any air carrier or foreign air carrier when necessary for a determination under section 401, 402, 418, or 419 of this title that such carriers is fit, willing, and able. The Board shall at all times have access to all accounts, records and memorandums, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by air carriers, foreign air carriers, or ticket agents. The Board may employ special agents or auditors, who shall have authority under the orders of the Board to inspect and examine lands, buildings, equipment, accounts, records, and memorandums to which the Board has access under this subsection.* The provisions of this section shall apply, to the extent found by the Board to be reasonably necessary for the administration of this Act, to persons having control over any air carrier, or affiliated with any air carrier within the meaning of section 5(8) of the Interstate Commerce Act, as amended.

* * * * * * *

Methods of Competition

INVESTIGTIONS

Sec. 411. (*a*) The Board may, upon its own initiative or upon complaint by any air carrier, foreign air carrier, or ticket agent, if it considers that such action by it would be in the interest of the public, investigate and determine whether any air carrier, foreign air carrier, or ticket agent has been or is engaged in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof. If the Board shall find, after notice and hearing, that such air carrier, foreign air carrier, or ticket agent is engaged in such unfair or deceptive practices or unfair methods of competition, it shall order such air carrier, foreign air carrier, or ticket agent to cease and desist from such practices or methods of competition.

INCORPORATION BY REFERENCE

(b) Any air carrier may incorporate by reference in any ticket or other written instrument any of the terms of the contract of carriage in interstate and overseas air transportation, in accordance with regulations issued by the Board establishing uniform notice requirements concerning such incorporation by reference.

Pooling and Other Agreements

FILING AND APPROVAL OF AGREEMENTS

Sec. 412. (a)(1) * * *

* * * * * * *

MUTUAL AID AGREEMENTS

(c) (1) Notwithstanding any other provision of law, any mutual aid agreement between air carriers which was approved by the Board before the date of enactment of this subsection and which is in effect on such date of enactment shall be deemed disapproved and not in effect on and after such date of enactment.

(2) No air carrier shall enter into any mutual aid agreement with any other air carrier, unless such air carrier files a true copy of such agreement with the Board and the Board approves such agreement pursuant to the provisions of this section. Notwithstanding subsection [(c)](*a*) of this section, the Board shall not approve any such agreement unless such agreement provides (A) that any air carrier will not receive payments for any period which exceed 60 per centum of the direct operating expenses during such period, (B) that benefits under the agreement are not payable for more than eight weeks during any labor strike, and that such benefits may not be for losses incurred during the first thirty days of any labor strike, and (C) that any party to such agreement will agree to submit the issues causing any labor strike to binding arbitration pursuant to the Railway Labor Act if the striking employees request such binding arbitration.

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CERTIFICATE FOR ALL-CARGO AIR SERVICE

APPLICATION

SEC. 418. (a) (1) * * *

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ISSUANCE AND REVOCATION OF CERTIFICATE

(b) (1) (A) Not later than sixty days after any application is submitted pursuant to paragraph (1), (2), or (3) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the all-cargo air service covered by the application.

(B) No later than one hundred and eighty days after any application is submitted pursuant to paragraph (4) of subsection (a) of this section, the Board shall issue a certificate under this section authorizing the whole or any part of the all-cargo air service covered by the application unless it finds that the applicant is not fit, willing, and able to provide such service and to comply with any rules and regulations promulgated by the Board.

(2) Any certificate issued by the Board under this section may contain such reasonable conditions and limitations as the Board deems necessary, except that such terms and conditions shall not restrict the points which may be served, or the rates which may be charged by the holder of such certificate.

[(3) Notwithstanding any other provision of this section, no certificate issued by the Board under this section shall authorize all-cargo air

service between any pair of points both of which are within the State of Alaska or the State of Hawaii.]

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Small Community Air Service

GUARANTEED ESSENTIAL AIR TRANSPORTATION

SEC. 419. (a)(1) * * *

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LEVEL OF SAFETY

(c)(1) For purposes of this subsection the term "commuter air carrier" means an air carrier exempt from any requirement of this Act under section [416(b)(3)] *416(b)(4)* of this title.

(2) Notwithstanding section 416(b) of this title, the Board shall not provide any compensation under this section to any commuter air carrier to provide service to any eligible point, and the Board shall prohibit any commuter air carrier from providing service to any eligible point, unless the Board determines that such commuter air carrier—

(A) is fit, willing, and able to perform such service; and

(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator under paragraph (3) of the subsection.

* * * * * * *

TITLE XIII—AVIATION INSURANCE

* * * * * * *

Administrative Powers of Secretary

REGULATORY AND SETTLEMENT

SEC. 1307. (a) The Secretary, in the administration of this title, may issue such policies, rules, and regulations as he deems proper and, subject to the following provisions of this subsection, may adjust and pay losses, compromise and settle claims, whether in favor of or against the United States and pay the amount of any judgment rendered against the United States in any suit, or the amount of any settlement agreed upon, in respect of any claim under insurance authorized by this title. In the case of any aircraft which is insured under the provisions of this title, (1) the policy shall specify a stated amount to be paid in the event of total loss, and such stated amount shall not exceed an amount determined by the Secretary [, after consultation with the Civil Aeronautics Board,] to represent the fair and reasonable value of the aircraft, and (2) the amount of any claim which is compromised, settled, adjusted, or paid shall in no event exceed such stated amount.

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TITLE XVI—SUNSET PROVISIONS

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

TERMINATION OF AUTHORITY

SEC. 1601. (a)(1) * * *

* * * * * * *

(3) Title II of this Act (*other than section 204*) shall cease to be in effect on January 1, 1985.

(*4*) *The following provisions of this Act (to the extent such provisions relate to interstate and overseas air transportation) and the authority of the Board with respect to such provisions (to the same extent) shall cease to be in effect on January 1, 1985:*

(A) Sections 401(l) and (m) and 405(b), and (c), and (d) of this Act (except insofar as such sections apply to the transportation of mail between two points both of which are within the State of Alaska).

(B) Section 403 of this Act.

(C) Section 404 of this Act (except insofar as such section requires air carriers to provide safe and adequate service).

(*5*) *The following provisions of this Act and the authority of the Board with respect to such provisions shall cease to be in effect on January 1, 1985:*

(A) Sections 407(b) and (c) of this Act.

(B) Section 410 of this Act.

(C) Section 417 of this Act.

(D) Sections 1002(d), (e), (g), (h), and (i) of this Act (except insofar as any of such sections relate to foreign air transportation).

(*6*) *Sections 412(a) and (b) of this Act (to the extent such sections relate to interstate and overseas air transportation) and section 414 of this Act (to the extent such section relates to orders made under sections 412(a) and (b) with respect to interstate and overseas air transportation) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.*

(*7*) *Sections 408 and 409 of this Act and section 414 of this Act (relating to such sections 408 409) and the authority of the Secretary of Transportation under such sections (to the same extent) shall cease to be in effect on January 1, 1989.*

(*8*) *Sections 401(l) and (m) and 405(b), (c) and (d) of this Act (to the extent such sections apply to the transportation of mail between two points both of which are within the State of Alaska) shall cease to be in effect on January 1, 1989.*

TRANSFER OF CERTAIN AUTHORITY

(b)(1) The following authority of the Board is transferred to the following Federal departments and instrumentalities:

(A) The authority of the Board under section 406 (b)(3) and (c) of this Act to provide compensation for air transportation to

small communities and under section 419 of this Act is transferred to the Department of Transportation.

(B) The authority of the Board under this Act with respect to foreign air transportation is transferred to the Department of Transportation which shall exercise such authority in consultation with the Department of State.

(C) The authority of the Board under sections 408 and 409 of this Act, the authority of the Board under section 412 of this Act, and the authority of the Board under section 414 of this Act (relating to such sections 408, 409, and 412) is transferred to the Department of [Justice] *Transportation.*

(D) The authority of the Board under this Act with respect to the determination of the rates for the carriage of mails in interstate and overseas air transportation (*other than for the carriage of mails between any two points both of which are within the State of Alaska*) is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding.

(E) All authority of the Board under this Act which is not terminated under subsection (a) of this section on or before January 1, 1985, and is not otherwise transferred under this subsection is transferred to the Department of Transportation.

(2) Any authority transferred under paragraph (1) of this subsection shall take effect on January 1, 1985.

(3) The authority of the Secretary of Transportation under this Act with respect to the determination of the rates for the carriage of mails between any two points both of which are within the State of Alaska is transferred to the Postal Service and such authority shall be exercised through negotiations or competitive bidding. The transfer of authority under this paragraph shall take effect on January 1, 1989.

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SECTION 329 OF TITLE 49, UNITED STATES CODE

§ 329. Transportation information

(a) The Secretary of Transportation may collect and collate transportation information the Secretary decides will contribute to the improvement of the transportation system of the United States. To the greatest practical extent, the Secretary shall use information available from departments, agencies, and instrumentalities of the United States Government and other sources. To the extent practical, the Secretary shall make available to other Government departments, agencies, and instrumentalities and to the public information collected under this subsection.

(b) The Secretary shall—

[(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.) or the Civil Aeronautics Board under title IV of that Act (49 U.S.C. 1371 et seq.));]

(1) collect and disseminate information on civil aeronautics (other than that collected and disseminated by the National Transportation Safety Board under title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.)) including, at a minimum, information on (A) the origin and destination of passengers in interstate and overseas air transportation (as those terms are used in such Act), and (B) the number of passengers traveling by air between any two points in interstate and overseas air transportation; except that in no case shall the Secretary require an air carrier to provide information on the number of passengers or the amount of cargo on a specific flight if the flight and the flight number under which such flight operates are used solely for interstate or overseas air transportation and are not used for providing essential air transportation under section 419 of the Federal Aviation Act of 1958;

(2) study the possibilities of developing air commerce and the aeronautical industry; and

(3) exchange information on civil aeronautics with governments of foreign countries through appropriate departments, agencies, and instrumentalities of the Government.

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SECTION 11 OF THE INTERNATIONAL AVIATION FACILITIES ACT

SEC. 11. The Secretary of Transportation shall survey the charges made to air carriers by foreign governments or other foreign entities for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation determines at any time that such charges unreasonably exceed comparable charges for furnishing such airport property or airway property in the United States or are otherwise discriminatory, he shall submit a report on such cases promptly to the Secretary of State [and the Civil Aeronautics Board] and the Secretary of State, in collaboration with the [Civil Aeronautics Board,] *Secretary of Transportation*, shall promptly undertake negotiations with the foreign country involved to reduce such charges or eliminate such discriminations. If within a reasonable period such charges are not reduced or such discriminations eliminated through negotiations, the Secretary of State shall promptly report such instances to the Secretary of Transportation who shall determine compensating charges equal to such excessive or discriminatory charges. Such compensating charges shall, with the approval of the Secretary of State, be imposed on the foreign air carrier or carriers of the country concerned by the Secretary of the Treasury as a condition to acceptance of the general declaration at the time of landing or takeoff of aircraft of such foreign air carrier or carriers. The amounts so collected shall accrue to an account established for that purpose by the Secretary of the Treasury. Payments shall be made from that account to air carriers in such amounts as shall be certified by the Secretary of Transportation in accordance with such regulations as he shall adopt to compensate such air carriers for excessive or discriminatory charges paid by them to the foreign countries involved.

SECTION 2 OF THE INTERNATIONAL AIR TRANSPORTATION FAIR COMPETITIVE PRACTICES ACT OF 1974

DISCRIMINATORY AND UNFAIR COMPETITIVE PRACTICES

SEC. 2. (a) United States air carriers operating in foreign air transportation perform services of vital importance to the foreign commerce of the United States including its balance of payments, to the Postal Service, and to the national defense. Such carriers have become subject to a variety of discriminatory and unfair competitive practices in their competition with foreign air carriers. The Department of State, the Department of the Treasury, the Department of Transportation, [the Civil Aeronautics Board,] and other departments or agencies, therefore, each shall keep under review, to the extent of their respective functions, all forms of discrimination or unfair competitive practices to which United States air carriers are subject in providing foreign air transportation services and each shall take all appropriate actions within its jurisdiction to eliminate such forms of discrimination or unfair competitive practices found to exist.

(b)(1) Whenever the [Civil Aeronautics Board,] *Secretary of Transportation*, upon complaint or upon its own initiative, determines that a foreign government or instrumentality, including a foreign air carrier (A) engages in unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practices against a United States air carrier or (B) imposes unjustifiable or unreasonable restrictions on access of a United States air carrier to foreign markets, the [Board] *Secretary* may take such action as it deems to be in the public interest to eliminate such practices or restrictions. Such actions may include, but are not limited to, the denial, transfer, alteration, modification, amendment, cancellation, suspension, limitation, or revocation of any foreign air carrier permit or tariff pursuant to the powers of the [Board] *Secretary* under the Federal Aviation Act of 1958.

(2) Any United States air carrier or any agency of the Government of the United States may file a complaint under this section with the [Civil Aeronautics Board.] *Secretary of Transportation.* The [Board] *Secretary* shall approve, deny, dismiss, set such complaint for hearing or investigation, or institute other proceedings proposing remedial action within 60 days after receipt of the complaint. The [Board] *Secretary* may extend the period for taking such action for an additional period or periods of up to 30 days each if the [Board] *Secretary* concludes that it is likely that the complaint can be satisfactorily resolved through negotiations with the foreign government or instrumentality during such additional period, but in no event may the aggregate period for taking action under this subsection exceed 180 days from receipt of the complaint. In considering any complaint, or in any proceedings under its own initiative, under this subsection the [Board] *Secretary* shall (A) solicit the views of the Department of State [and the Department of Transportation] and (B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.

(3) Any action proposed by the [Board] *Secretary* pursuant to this section shall be transmitted to the President pursuant to section 801 of the Federal Aviation Act of 1958 (49 U.S.C. 1461).

* * * * * * *

(d) The [Civil Aeronautics Board] *Secretary of Transportation* shall report annually to Congress on the actions that have been taken under subsection (a) and on the continuing program to eliminate discriminations and unfair competitive practices faced by United States carriers in foreign air transportation. [The Secretaries of State, Treasury, and Transportation shall furnish to the Civil Aeronautics Board such information as may be necessary to prepare the report required by this subsection.] *The Secretaries of State and Treasury shall furnish to the Secretary of Transportation such information as may be necessary to prepare the report required by this subsection.*

TITLE 5, UNITED STATES CODE

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PART III--EMPLOYEES

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Subpart D—Pay and Allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

* * * * * * *

[Chairman, Civil Aeronautics Board.]

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§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate deter-

mined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

* * * * * * *

[Members, Civil Aeronautics Board.]

* * * * * * *

SECTION 3726 OF TITLE 31, UNITED STATES CODE

§ 3726. Payment for transportation

(a) A carrier or freight forwarder presenting a bill for transporting an individual or property for the United States Government shall be paid before the Administrator of General Services conducts an audit. A claim under this section shall be allowed only if it is received by the Administrator not later than 3 years (excluding time of war) after the later of the following dates:

(1) accrual of the claim;

(2) payment for the transportation is made;

(3) refund for an overpayment for the transportation is made; or

(4) a deduction under subsection (b) of this section is made.

(b) Not later than 3 years (excluding time of war) after the time a bill is paid, the Government may deduct from an amount subsequently due a carrier or freight forwarder an amount paid on the bill that was greater than the rate allowed under—

(1) a lawful tariff on file with the Interstate Commerce Commission, the [Civil Aeronautics Board.] *Secretary of Transportation with respect to foreign air transportation (as defined in the Federal Aviation Act of 1958)*, the Federal Maritime Commission, or a State transportation authority; or

(2) sections 10721–10724 of title 49 or an equivalent arrangement or an exemption.

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TITLE 39, UNITED STATES CODE

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PART IV—MAIL MATTER

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CHAPTER 34.—ARMED FORCES AND FREE POSTAGE

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§ 3401. Mailing privileges of members of Armed Forces of the United States and of friendly foreign nations

(a) * * *

(b) There shall be transported by air, between Armed Forces post offices which are located outside the 48 contiguous States of the United States or between any such Armed Forces post office and the point of embarkation or debarkation within the United States, the territories and possessions of the United States in the Pacific area, the Commonwealth of Puerto Rico, or the Virgin Islands on a space available basis, on scheduled United States air carriers at rates fixed and determined by the [Civil Aeronautics Board] *Secretary of Transportation* in accordance with section 1376 of title 49, the following categories of mail matter:

(1) (A) letter mail or sound-recorded communications having the character of personal correspondence;

(B) parcels not exceeding 15 pounds in weight and 60 inches in length and girth combined; and

(C) publications entitled to a periodical publication rate published once each week or more frequently and featuring principally current news of interest to members of the Armed Forces and the general public,

which are mailed at or addressed to any such Armed Forces post office;

(2) parcels not exceeding 70 pounds in weight and 100 inches in length and girth combined, which are mailed at any such Armed Forces post office; and

(3) parcels exceeding 15 pounds but not exceeding 70 pounds in weight and not exceeding 100 inches in length and girth combined, including surface-type official mail, which are mailed at or addressed to any such Armed Forces post office where adequate surface transportation is not available.

Whenever adequate service by scheduled United States air carriers is not available to provide transportation of mail matter by air in accordance with this subsection, the transportation or such mail may be authorized by other than scheduled United States air carriers.

(c) Any parcel, other than a parcel mailed at a rate of postage requiring priority of handling and delivery, not exceeding 30 pounds in weight and 60 inches in length and girth combined, which is mailed at or addressed to any Armed Forces post office established under section 406(a) of this title, shall be transported by air on a space available basis on scheduled United States air carriers at rates fixed and determined by the [Civil Aeronautics Board] *Secretary of Transportation* in accordance with section 1376 of title 49, upon payment of a fee for such air transportation in addition to the rate of postage otherwise applicable to such a parcel not transported by air. If adequate service by scheduled United States air carriers is not available, any such parcel may be transported by air carriers other than scheduled United States air carriers.

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PART V—TRANSPORTATION OF MAIL

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CHAPTER 50.—GENERAL

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§ 5005. Mail transportation

(a) The Postal Service may obtain mail transportation service—

(1) from common carriers by rail and motor vehicle or persons as provided in chapter 52 of this title;

(2) from air carriers as provided in chapter 54 of this title;

(3) from water carriers as provided in chapter 56 of this title; and

(4) by contract from any person (as defined in section 5201(7) of this title) or carrier for surface and water transportation under such terms and conditions as it deems appropriate, subject to the provisions of this section.

(b)(1) Contracts for the transportation of mail procured under subsection (a)(4) of this section shall be for periods not in excess of 4 years (or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years) and shall be entered into only after advertising a sufficient time previously for proposals. The Postal Service, with the consent of the holder of any such contract, may adjust the compensation allowed under that contract for increased or decreased costs resulting from changed conditions occurring during the term of the contract.

(2) A contract under subsection (a)(4) of this section may be renewed at the existing rate by mutual agreement between the contractor or subcontractor and the Postal Service.

(3) Any contract between the Postal Service and any carrier or person for the transportation of mail shall be available for inspection in the office of the Postal Service and either the Interstate Commerce Commission or the [Civil Aeronautics Board,] *Secretary of Transportation if for the carriage of mail in foreign air transportation (as defined in section 101 of the Federal Aviation Act of 1958)*, as appropriate, and in post offices on the post roads involved, as determined by the Postal Service, at least 15 days prior to the effective date of the contract.

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CHAPTER 54.—TRANSPORTATION OF MAIL BY AIR

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§ 5401. Authorization

(a) The Postal Service is authorized to provide for the safe and expeditious transportation of mail by aircraft.

(b) Except as otherwise provided in section 5402 of this title, the Postal Service may make such rules, regulations, and orders consistent with sections 1301–1542 of title 49, or any order, rule, or regulation made by the [Civil Aeronautics Board] *Secretary of Transportation* thereunder, as may be necessary for such transportation.

§ 5402. Contracts for transportation of mail by air

(a) The Postal Service may contract with any certificated air carrier, without advertising for bids, in such manner and under such terms and conditions as it deems appropriate, for the transportation

of mail by aircraft between any of the points *in foreign air transportation* between which the carrier is authorized by the [Civil Aeronautics Board] *Secretary of Transportation* to engage in the transportation of mail. Such contracts shall be for the transportation of at least 750 pounds of mail per flight, and no more than [10 percent of the domestic mail transported under any such contract or] 5 percent, based on weight, of the international mail transported under any such contract shall consist of letter mail. Any such contract shall be filed with the [Civil Aeronautics Board] *Secretary of Transportation* not later than 90 days before its effective date. Unless the [Civil Aeronautics Board] *Secretary of Transportation* shall determine otherwise (under criteria prescribed by section 1302 of title 49) not later than 10 days prior to the effective date of the contract, such contract shall become effective.

(b) When the Postal Service deems that the transportation of mail by aircraft is required between points *in foreign air transportation* between which the [Civil Aeronautics Board] *Secretary of Transportation* has not authorized an air carrier or combination of air carriers to engage in the transportation of mail, it may contract with any air carrier in such manner and under such terms and conditions as it may deem appropriate for the transportation of any class or classes of mail. The transportation of mail under contracts entered into under this subsection is not, except for sections 1371(k) and 1386(b) of title 49, air transportation within the provisions of sections 1301–1542 of title 49. The Postal Service shall cancel such contract, in whole or in respect to certain points as the certificate shall require, upon the issuance by the [Civil Aeronautics Board] *Secretary of Transportation* of an authorization under sections 1371–1386 of title 49 to any air carrier to engage in the transportation of mail by aircraft between any of the points named in the contract, and the inauguration of scheduled service by such carrier.

(c) If the Postal Service determines that service by certificated air carriers or combination of air carriers between any pair or pairs of points *in foreign air transportation* is not adequate for its purposes, it may contract for a period of not more than 4 years, without advertising for bids, in such manner and under such terms and conditions as it may deem appropriate, with any air taxi operator or combination thereof for such air transportation service. Contracts made under this subsection may be renewed at the existing rate by mutual agreement between the holder and the Postal Service. The Postal Service, with the consent of the air taxi operator, may adjust the compensation under such contracts for increased or decreased costs occasioned by changed conditions occurring during the contract term. The Postal Service shall cancel such a contract when the [Civil Aeronautics Board] *Secretary of Transportation* authorizes an additional certificated carrier or carriers to provide service between any pair or pairs of points covered by the contract, and such carrier or carriers inaugurate schedules adequate for its purposes.

(d) The Postal Service may contract with any air carrier for the transportation of mail by aircraft in interstate and overseas air transportation either through negotiations or competitive bidding.

(e) For purposes of this section, the terms "air carrier", "interstate air transportation", "overseas air transportation", and "foreign air transportation" have the meanings given such terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).

(f) During the period beginning January 1, 1985, and ending January 1, 1989, the authority of the Secretary of Transportation under subsections (a), (b), and (c) of this section shall also apply, and the authority of the Postal Service under subsection (d) shall not apply, to the transportation of mail by aircraft between any two points both of which are within the State of Alaska and between which the air carrier is authorized by the Secretary to engage in the transportation of mail. Not more than 10 percent of the domestic mail transported under any contract entered into under subsection (a) pursuant to such authority shall consist of letter mail.

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SECTION 3502 OF TITLE 44, UNITED STATES CODE

§ 3502. Definitions

As used in this chapter—

(1) * * *

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(10) the term "independent regulatory agency" means the Board of Governors of the Federal Reserve System, [the Civil Aeronautics Board,] the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Home Loan Bank Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

* * * * * * *

SECTION 15 OF THE ANIMAL WELFARE ACT

SEC. 15. (a) The Secretary shall consult and cooperate with other Federal departments, agencies, or instrumentalities concerned with the welfare of animals used for research, experimentation or exhibition, or administration of statutes regulating the transportation in commerce or handling in connection therewith of any animals when establishing standards pursuant to section 13 and in carrying out the purposes of this Act.

Before promulgating any standard governing the air transportation and handling in connection therewith, of animals, the Secretary shall consult with the Secretary of Transportation who shall have the authority to disapprove any such standard if he notifies the Secretary, within 30 days after such consultation, that changes in its provisions are necessary in the interest of flight safety. The Interstate Commerce Commission, [the Civil Aeronautics Board,] *the Secretary of Transportation*, and the Federal Maritime Commission, to the extent of their respective lawful authorities, shall take such action as is appropriate to implement any standard established by the Secretary with respect to a person subject to regulation by it.

(b) The Secretary is authorized to cooperate with the officials of the various States or political subdivisions thereof in carrying out the purposes of this Act and of any State, local, or municipal legislation or ordinance on the same subject.

SECTION 203 OF THE AGRICULTURAL MARKETING ACT OF 1946

SEC. 203. The Secretary of Agriculture is directed and authorized:

(a) * * *

* * * * * * *

(j) To assist in improving transportation services and facilities and in obtaining equitable and reasonable transportation rates and services and adequate transportation facilities for agricultural products and farm supplies by making complaint or petition to the Interstate Commerce Commission, the Maritime Commission, [the Civil Aeronautics Board,] or other Federal or State transportation regulatory body, or the Secretary of Transportation, with respect to rates, charges, tariffs, practices, and services, or by working directly with individual carriers or groups of carriers.

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TITLE 10, UNITED STATES CODE

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Subtitle B—Army

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 447—TRANSPORTATION

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§ 4746. Civilian personnel in Alaska

Persons residing in Alaska who are and have been employed there by the United States for at least two years, and their families, may be transported on vessels or airplanes operated by Army transport agencies or, within bulk space allocations made to the Department of the Army, on vessels or airplanes operated by any military transport agency of the Department of Defense, if—

(1) the Secretary of the Army considers that accommodations are available;

(2) the transportation is without expense to the United States;

(3) the transportation is limited to one round trip between Alaska and the United States during any two-year period, except in an emergency such as sickness or death; and

(4) in case of travel by air—

(A) the [Civil Aeronautics Board] *Secretary of Transportation* has not certified that commercial air carriers of the United States that can handle the transportation are operating between Alaska and the United States; and

(B) the transportation cannot be reasonably handled by a United States commercial air carrier.

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Subtitle D—Air Force

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 947—TRANSPORTATION

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§ 9746. Civilian personnel in Alaska

Persons residing in Alaska who are and have been employed there by the United States for at least two years, and their families, may be transported on airplanes operated by Air Force transport agencies or, within bulk space allocations made to the Department of the Air Force, on vessels or airplanes operated by any military transport agency of the Department of Defense, if—

(1) the Secretary of the Air Force considers that accommodations are available;

(2) the transportation is without expense to the United States;

(3) the transportation is limited to one round trip between Alaska and the United States during any two-year period, except in an emergency such as sickness or death; and

(4) in case of travel by air—

(A) the [Civil Aeronautics Board] *Secretary of Transportation* has not certified that commercial air carriers of the United States that can handle the transportation are operating between Alaska and the United States; and

(B) the transportation cannot be reasonably handled by a United States commercial air carrier.

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CLAYTON ACT

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SEC. 7. That no person engaged in commerce or in any activity affecting commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no person subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another person engaged also in commerce or in any activity affecting commerce, where in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

No person shall acquire, directy or indirectly, the whole or any part of the stock or other share capital and no person subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of one or more persons engaged in commerce or in any activity affecting commerce, where in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition, of such stocks or assets, or of the use of such stock by the voting or granting of proxies or otherwise, may be substantially to lessen competition, or to tend to create a monopoly.

This section shall not apply to persons purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce or in any activity affecting commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extend-

ing any of its lines through the medium of the acquisition of stock or otherwise of any other common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the [Civil Aeronautics Board,] *Secretary of Transportation*, Federal Communications Commission, Federal Power Commission, Interstate Commerce Commission, the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 of the Public Utility Holding Company Act of 1935, the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in such Commission [, Secretary, or Board.] *or Secretary.*

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SEC. 11. (a) That authority to enforce compliance with sections 2, 3, 7, and 8 of this Act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the [Civil Aeronautics Board] *Secretary of Transportation* where applicable to air carriers and foreign air carriers subject to the [Civil Aeronautics Act of 1938] *Federal Aviation Act of 1958*; in the Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce to be exercised as follows:

(b) Whenever the [Commission or Board] *Commission, Board, or Secretary* vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections 2, 3, 7, and 8 of this Act, it shall issue and serve upon such person and the Attorney General a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the [Commission or Board] *Commission, Board, or Secretary* requiring such person to cease and desist from the violation of the law so charged in said complaint. The Attorney General shall have the right to intervene and appear in said proceeding and any person may make application, and upon good cause shown may be allowed by the [Commission or Board] *Commission, Board, or Secretary*, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the [Commission or Board.] *Commission, Board, or Secretary.* If upon such hearing the [Commission or Board,] *Commission, Board,*

or Secretary, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock, or other share capital, or assets, held or rid itself of the directors chosen contrary to the provisions of sections 7 and 8 of this Act, if any there be, in the manner and within the time fixed by said order. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the record in the proceeding has been filed in a court of appeals of the United States, as hereinafter provided, the [Commission or Board] *Commission, Board, or Secretary* may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section. After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the [Commission or Board] *Commission, Board, or Secretary* may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the [Commission or Board] *Commission, Board, or Secretary* conditions of fact or of law have so changed as to require such action or if the public interest shall so require: *Provided, however*, That the said person may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Any person required by such order of the [commission or board] *Commission, board, or Secretary* to cease and desist from any such violation may obtain a review of such order in the court of appeals of the United States for any circuit within which such violation occurred or within which such person resides or carries on business, by filing in the court, within sixty days after the date of the service of such order, a written petition praying that the order of the [Commission or board] *Commission, board, or Secretary* be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the [commission or board.] *Commission, board, or Secretary* and thereupon the [commission or board] *Commission, board, or Secretary* shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the [commission or board] *Commission, board, or Secretary* until the filing of the record, and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the [commission or board.] *Commission, board, or Secretary* and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancilliary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the [commission or board] *Commission, board, or*

Secretary as to the facts, if supported by substantial evidence, shall conclusive. To the extent that the order of the [*commission or board*] *Commission, board, or Secretary* is affirmed, the court shall issue its own order commanding obedience to the terms of such order of the [commission or board.] *Commission, board, or Secretary.* If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the [commission or board] *Commission, board, or Secretary*, the court may order such additional evidence to be taken before the [commission or board] *Commission, board, or Secretary*, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper The [commission or board] *Commission, board, or Secretary* may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28 of the United States Code.

(d) Upon the filing of the record with it the jurisdiction of the dence over other cases pending therein, and shall be in every way [commission or board] *Commission, board, or Secretary* shall be exclusive.

(e) Such proceedings in the court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the [commission or board] *Commission, board, or Secretary* or judgment of the court to enforce the same shall in anywise relieve or absolve any person from any liability under the antitrust laws.

(f) Complaints, orders, and other processes of the [commission or board] *Commission, board, or Secretary* under this section may be served by anyone duly authorized by the [commission or board] *Commission, board, or Secretary*, either (1) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the residence or the principal office or place of business of such person; or (3) by mailing by registered or certified mail a copy thereof addressed to such person at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process mailed by registered or certified mail as aforesaid shall be proof of the service of the same.

(g) Any order issued under subsection (b) shall become final—

(1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the [commission or board] *Commission, board, or*

Secretary may thereafter modify or set aside its order to the extent provided in the last sentence of subsection (b); or

(2) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the [commission or board] *Commission, board, or Secretary* had been affirmed, or the petition for review has been dismissed by the court of appeals, and no petition for certiorari has been duly filed; or

(3) upon the denial of a petition for certiorari, if the order of the [commission or board] *Commission, board, or Secretary* has been affirmed or the petition for review has been dismissed by the court of appeals; or

(4) upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the [commission or board] *Commission, board, or Secretary* be affirmed or the petition for review be dismissed.

(h) If the Supreme Court directs that the order of the commission or board be modified or set aside, the order of the [commission or board] *commission, board, or Secretary* rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the [commission or board] *commission, board, or Secretary* shall become final when so corrected.

(i) If the order of the [commission or board] *commission, board, or Secretary* is modified or set aside by the court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been dully filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the [commission or board] *commission, board, or Secretary* rendered in accordance with the mandate of the court of appeals shall become final on the expiration of thirty days from the time such order of the [commission or board] *commission, board, or Secretary* was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the [commission or board] *commission, board or Secretary* shall become final when so corrected.

(j) If the Supreme Court orders a rehearing; or if the case is remanded by the court of appeals to the [commission or board] *commission, board or Secretary* for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been dulv filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the [commission or board] *commission, board, or Secretary* rendered upon such rehearing shall become final in the same manner as though no prior order of the [commission or board] *commission, board, or Secretary* had been rendered.

(k) As used in this section the term "mandate", in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate.

(l) Any person who violates any order issued by the [commission or board] *commission, board, or Secretary* under subsection (b) after such order has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States. Each separate violation of any such order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the [commission or board] *commission, board, or Secretary* each day of continuance of such failure or neglect shall be deemed a separate offense.

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CONSUMER CREDIT PROTECTION ACT

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TITLE I—CONSUMER CREDIT COST DISCLOSURE

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CHAPTER 1—GENERAL PROVISIONS

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§ 108. Administrative enforcement

(a) Compliance with the requirements imposed under this title shall be enforced under

(1) * * *

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(4) the Federal Aviation Act of 1958, by the [Civil Aeronautics Board] *Secretary of Transportation* with respect to any air carrier or foreign air carrier subject to that Act.

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TITLE VI—CONSUMER CREDIT REPORTING

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§ 621. Administrative enforcement

(a) * * *

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(b) Compliance with the requirements imposed under this title with respect to consumer reporting agencies and persons who use consumer reports from such agencies shall be enforced under—

(1) * * *

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(5) the Federal Aviation Act of 1958, by the [Civil Aeronautics Board] *Secretary of Transportation* with respect to any air carrier or foreign air carrier subject to that Act; and

(6) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

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TITLE VII—EQUAL CREDIT OPPORTUNITY

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§ 704. Administrative enforcement

(a) Compliance with the requirements imposed under this title shall be enforced under:

(1) * * *

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(5) The Federal Aviation Act of 1958, by the [Civil Aeronautics Board] *Secretary of Transportation* with respect to any air carrier or foreign air carrier subject to that Act.

TITLE VIII—DEBT COLLECTION PRACTICES

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§ 814. Administrative enforcement

(a) * * *

(b) Compliance with any requirements imposed under this title shall be enforced under—

(1) * * *

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(5) the Federal Aviation Act of 1958, by the [Civil Aeronautics Board] *Secretary of Transportation* with respect to any foreign air carrier subject to that Act; and

(6) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

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SECTION 3 OF THE ACT OF JULY 19, 1940

AN ACT To encourage travel in the United States, and for other purposes

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SEC. 3. The Secretary of the Interior is authorized to create an advisory committee to consist of a representative from each of the Departments of State, Agriculture, and Commerce, the Interstate Commerce Commission, [the Civil Aeronautics Authority,] and the Department of Transportation, as may be designated by such Departments or agencies, respectively, and such additional members, representatives of the various sections of the Nation, including transportation and accommodations agencies, not to exceed six members, to be appointed by the Secretary of the Interior to serve at his pleasure. Meetings of the committee shall be held at the request of the Secretary

for the purpose of making recommendations concerning the promotion of tourist travel under the provisions of this Act. The members of the committee shall receive no compensation for their services as members, but shall be entitled to reimbursement for such necessary travel and other expenses in connection with their attendance at committee meetings as may be authorized or approved by the Secretary.

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INTERNAL REVENUE CODE OF 1954

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter A—Determination of Tax Liability

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PART IV—CREDITS AGAINST TAX

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Subpart B—Rules for Computing Credit for Investment in Certain Depreciable Property

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SEC. 47. CERTAIN DISPOSITIONS, ETC., OF SECTION 38 PROPERTY.

(a) GENERAL RULE.—Under regulations prescribed by the Secretary—

(1) EARLY DISPOSITION, ETC.—* * *

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(7) AIRCRAFT USED OUTSIDE THE UNITED STATES AFTER APRIL 18, 1969.—

(A) GENERAL RULE.—Any aircraft which was new section 38 property for the taxable year in which it was placed in service and which is used outside the United States under a qualifying lease or leases shall be treated as not ceasing to be section 38 property by raeson of such use until such aircraft has been so used for a period or periods exceeding 3½ years in total. For purposes of the preceding sentence, the registration of such aircraft under the laws of a foreign country shall be treated as use outside the United States.

(B) COMPUTATION OF QUALIFIED INVESTMENT.—If an aircraft described in subparagraph (A) is disposed of or otherwise ceases to be section 38 property, the increase under paragraph (1) and the adjustment under paragraph (6) shall not be greater than the increase or adjustment which would result if the qualified investment of such aircraft were based upon a useful life equal to the lesser of (i) the actual useful life of

such aircraft with respect to the taxpayer, or, (ii) twice the number of full calendar months during which such aircraft was registered by the Administrator of the Federal Aviation Agency and was used in the United States, operated to and from the United States, or operated under contract with the United States. For purposes of the preceding sentence, an aircraft shall be treated as used in the United States for any calendar month beginning after such aircraft was placed in service, if such month is included in a taxable year ending before January 1, 1971, for which such aircraft was section 38 property (determined without regard to this paragraph).

(C) QUALIFYING LEASE DEFINED.—For purposes of subparagraph (A), the term "qualifying lease" means a lease from an air carrier (as defined in section 101 of the Federal Aviation Act of 1958, as amended (48 U.S.C. 1301)) which complies with the provisions of the Federal Aviation Act of 1958, as amended, and the rules and regulations promulgated by the [Civil Aeronautics Board] *Secretary of Transportation* thereunder, but only if such lease was executed after April 18, 1969.

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Subtitle F—Procedure and Administration

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CHAPTER 79—DEFINITIONS

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SEC. 7701. DEFINITIONS.

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) PERSON.—The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

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(33) REGULATED PUBLIC UTILITY.—The term "regulated public utility" means—

(A) A corporation engaged in the furnishing or sale of—

(i) electric energy, gas, water, or sewage disposal services, or

(ii) transportation (not included in subparagraph (C)) on an intrastate, suburban, municipal, or interurban electric railroad, on an intrastate, municipal, or suburban trackless trolley system, or on a municipal or suburban bus system, or

(iii) transportation (not included in clause (ii)) by motor vehicle—

if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the

United States, by a public service or public utility commission or other similar body of the District of Columbia or of any State or political subdivision thereof, or by a foreign country or an agency or instrumentality or political subdivision thereof.

(B) A corporation engaged as a common carrier in the furnishing or sale of transportation of gas by pipe line, if subject to the jurisdiction of the Federal Power Commission.

(C) A corporation engaged as a common carrier (i) in the furnishing or sale of transportation by railroad, if subject to the jurisdiction of the Interstate Commerce Commission, or (ii) in the furnishing or sale of transportation of oil or other petroleum products (including shale oil) by pipe line, if subject to the jurisdiction of the Interstate Commerce Commission or if the rates for such furnishing or sale are subject to the jurisdiction of a public service or public utility commission or other similar body of the District of Columbia or of any State.

(D) A corporation engaged in the furnishing of telephone or telegraph service, if the rates for such furnishing or sale meet the requirements of subparagraph (A).

(E) A corporation engaged in the furnishing or sale of transportation as a common carrier by air, subject to the jurisdiction of the [Civil Aeronautics Board.] *Secretary of Transportation.*

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SUPPLEMENTAL VIEWS OF THE HONORABLE GENE SNYDER AND THE HONORABLE JOHN PAUL HAMMERSCHMIDT

We do not agree with the portion of the report entitled "Due Process and Political Insulation". Moreover, we do not believe that this discussion should be included in the report because the bill does not contain any provisions dealing with this subject matter.

JOHN PAUL HAMMERSCHMIDT.
GENE SNYDER.

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